

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1171-08
Bill No.: Truly Agreed to and Finally Passed CCS #2 for SS for SCS for HB 453
Subject: Missouri Emergency Response Commission; Department of Natural Resources;
Petroleum Storage Tank Insurance Fund; Secretary of State Fees; Surface Mining
Permits; Economic Development; Business and Commerce; Public Records;
Science and Technology; Education, Elementary and Secondary; Motor Carriers;
Environmental Protection; Air Pollution; Water Pollution; Health, Public;
Enterprise Zones; Taxation and Revenue
Type: Original
Date: June 6, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Chemical Emergency Preparedness Fund	\$0	\$211,060	\$266,604
Petroleum Storage Tank Insurance Fund	\$4,200,000	\$8,734,576	\$9,172,583
Road Fund	\$0	\$0	\$95,000
Secretary of State's Technology Trust Fund Account	\$1,150,000	\$2,300,000	\$2,300,000
Mined Land Reclamation Fund**	\$80,822	\$20,171	\$22,260
General Revenue	(\$4,200 to \$204,200)	(\$5,000 to \$1,131,614)	(\$5,000 to \$1,168,678)
State School Moneys	\$0	\$0	\$0
0594-NRP- Permit	\$0	(\$144,560)	(\$133,478)
Total Estimated Net Effect on <u>All</u> State Funds	\$5,226,622 to \$5,426,622	\$9,989,633 to \$11,116,247	\$10,554,291 to \$11,717,969

**** DOES NOT REFLECT UNKNOWN HEARING EXPENSES**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0
ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$391,971	\$495,120
School Districts	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

FISCAL ANALYSIS

ASSUMPTION

Assumptions in reference to the component of the proposal addressing allowing government agencies to reproduce official documents using computer-generated electronic or digital retrieval records system (section 109.120 and 109.241)

Officials from all 34 agencies contacted state that either the proposal would not affect their agencies or the proposal would offer, but not require, additional methods of reproducing documents.

Assumptions in reference to the component of the proposal addressing the Harley Davidson plant in Kansas City (section 135.230)

Officials from the **Department of Revenue (DOR)** state that this proposal will broaden the class of employees that can be counted to fulfill residency requirements for enterprise zone tax credits and exemptions for new motorcycle or bicycle manufacturing facilities.

The DOR states that they do not anticipate a significant increase in the number of new credits filed. Therefore, they will not request additional FTE at this time. However, DOR states that if their assumption is incorrect, they will need one Temporary Tax Season Employee for every 75,000 additional credits, one Tax Processing Tech I for every 30,000 additional errors generated

ASSUMPTION (continued)

and one Tax Processing Tech I for every 3,000 additional pieces of correspondence received regarding this credit. Any FTE needed will be requested during the normal budget process.

Officials from the **Department of Economic Development (DED)** state that this part of the proposal changes the residency requirement for Enterprise Zone credits. DED notes that this proposal is identical to FN 1886-01. However, DED has re-evaluated their original response. DED originally predicted a \$0 to \$200,000 impact. DED now projects the impact to be \$0. This change in response from 1886-01 is based on additional input from the cycle manufacturer impacted by the NAICS code.

Oversight also assumes the expansion of the employees who count toward the residency requirement at the Harley Davidson plant in Kansas City may have a fiscal impact on the state and have used DED's original response.

Assumptions in reference to the component of the proposal addressing the revisions in inspection provisions for beverage manufacturers and distributors (section 196.367)

Oversight assumes that there will be a fiscal impact resulting from passage of this proposal due to the loss of fees collected and the savings generated by not completing inspections. Due to the effective date of July 1, 2005, of the proposal, no fiscal impact would be realized until FY 2006 and therefore Oversight reflects no impact for fiscal years 2002 - 2004.

Assumptions in reference to the component of the proposal addressing the Emergency Response Commission (section 292.606)

Officials from the **Office of Administration - Division of Budget and Planning** assume that the proposed legislation would have no fiscal impact on their agency and defer to the Department of Public Safety.

Officials from the **Department of Public Safety - State Emergency Management Agency** note that this proposal allows the state to help provide funds to local communities for training, planning and response to hazardous materials incidents. Based on collections from prior years, SEMA estimates collecting \$723,637 in FY 2003 (10/12 equals \$603,031) and \$761,724 in FY 2004. SEMA notes that all fees collected are deposited into the Chemical Emergency Preparedness Fund, which is self-supporting at the current fee structure.

Of the fees collected, the Missouri Emergency Response Commission (MERC) receives 25% for administration and the Division of Fire Safety receives 10% which is used for the training of firemen and first responders for hazardous material incidents. The remaining 65% of the fees

ASSUMPTION (continued)

collected is distributed to local governments.

Assumptions in reference to the component of the proposal addressing Petroleum Storage Tank Insurance Fund (sections 319.129, 319.131, 319.132, 319.133)

Officials from the **Departments of Agriculture and Economic Development** and the **Office of the State Courts Administrator** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Office of Administration - Division of Budget and Planning** assume the proposed legislation would have no fiscal impact on their agency. Officials noted that there would be impact on total state revenue.

Officials from the **Department of Revenue** note that the Division of Taxation would notify 800 licensees of the increase in the fee and change the reporting forms to reflect the increase. However, officials assume the DOR would use existing resources in making these changes and notifications.

Officials of the **Department of Transportation (DHT)** note that the department has performed insurance-funded cleanups with an average reimbursement cost of \$95,000. With the extension of the potential reimbursements until 2010, DHT officials assume the department would experience an average of two cleanups per year with an average reimbursement of \$95,000, for a total annual reimbursement to the Road Fund of \$190,000. DHT notes that the legislation is already in effect for 2002 and 2003; therefore, the fiscal impact of this proposal is zero for those years. **Oversight** has reflected six (6) months of cost savings to the Road Fund or \$95,000.

Officials from the **Department of Natural Resources (DNR)** note that the annual work plan between the Petroleum Storage Tank Insurance Fund (PSTIF) board and the department documents tank activities to be funded by PSTIF. DNR assumes that the new language added in Section 319.132.3(4) would allow the PSTIF board to continue funding the department for all activities and work plan items that are currently being funded by the PSTIF board under the DNR Tanks/PSTIF work plan.

The PSTIF Board estimates revenues to remain relatively constant in FY 2005 - FY 2010 at approximately the same levels as FY 2004. In FY 2011, revenues would be half or less, compared to prior years. Revenues would be zero in FY 2012 and beyond. For purposes of this fiscal note, PSTIF Board officials assume 570,000 transport loads and that the transport load fee would increase to \$40 in FY 2002, \$50 in FY 2003, and \$60 in FY 2004.

ASSUMPTION (continued)

Expenditures from the PSTIF are estimated to be approximately \$20-\$30 million in FY 2005 through 2010, decreasing to \$10-20 million in FY 2011 - FY 2012 and less than \$10 million annually thereafter until the balance in the fund has been expended in approximately FY 2014.

A number of cash flow projections were provided to the PSTIF Board of Trustees by its third-party administrator. The estimates contained herein are derived from those studies. Assumptions used include the following:

- * Approximate constant volume of petroleum coming into Missouri annually
- * Approximate increases of 1% per year in participation by underground tank owners in the PSTIF insurance program through FY 2005, with constant participation thereafter.
- * Approximate increases of 7% per year in participation by aboveground tank owners in the PSTIF insurance program, through FY 2005 with constant participation thereafter
- * Approximate increases of 3% annually in state agency and administrative expenses
- * Additional claims for the cleanup of 2,800 old tank sites are received
- * 1% of insured underground storage tank sites and 2.5% of insured aboveground storage tank sites file a claim annually
- * Claims currently delayed due to funding shortfalls are allowed to begin cleanups during FY 2002
- * Twenty-five additional large loss claims (exceeding \$250,000) are filed during the life of the program
- * Environmental cleanup requirements are not substantially changed during the life of the program

Assumptions in reference to the component of the proposal addressing Petroleum Storage Tank Insurance Fund and filing a claim for a refund of a surcharge (section 319.132)

In reference to similar legislation (HB 758), officials from the **Department of Agriculture** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Department of Revenue** assume the proposed legislation would have little or no administrative impact on their department.

Officials from the **Department of Natural Resources** note that neither the board nor the department anticipates any direct fiscal impact as a result of this proposal. DNR notes that the PSTIF Board has an existing appropriation for the purpose of refunding erroneously collected receipts. DNR states that the proposal would clarify the format for someone to request a refund of a surcharge that has been paid into the PSTIF if the payment was made in error.

ASSUMPTION (continued)

Assumptions in response to the component of the proposal addressing the Secretary of State's Technology Trust Fund Account (sections 347.740, 351.127, 355.023, 356.233, 359.653, 400.9-508, 417.018)

Officials from the **Secretary of State's Office**, responded in a similar proposal (HB 938), that without the continuance of collecting fees for the Technology Trust Fund, the Secretary of State assumes their office would need annual budget expenditures for technology. SOS did not estimate the amount of revenue that would be recognized into the fund resulting from passage of this proposal.

Oversight notes that based on information obtained from the Office of Administration - Division of Accounting's Financial Summaries for FY's 1998 through FY 2000, the receipts for the Secretary of State's Technology Trust Fund Account for FY 1998 were \$2,300,375, for FY 1999 were \$2,243,058 and for FY 2000 were \$2,332,062. Averaging the receipts for the noted fiscal years, the fund is averaging fiscal year receipts of approximately \$2,291,832 or approximately \$2,300,000. Using this \$2,300,000, Oversight assumes the receipts for this fund for FY 2002 will be \$1,150,000 and for FYs 2003 and 2004 will be \$2,300,000. In FY 2002 the receipts are prorated at six (6) months due to the fact that per current law the fees would expire on December 31, 2001. Therefore, the fiscal impact in FY 2002 is only six (6) months.

Assumptions in response to the component of the proposal addressing biodiesel fuel (section 414.407)

Officials from the **Department of Elementary and Secondary Education (DES)** assume that this section of the proposal would not impact their agency as the vehicles owned by DES do not appear to be subject to the requirements of the federal Energy Policy Act.

Officials from the **Office of Administration - Division of Budget and Planning** assume that the proposed legislation would have no fiscal impact on their agency.

Officials from the **Department of Agriculture** assume that their agency will have to determine which division (within their agency) will be involved with the Department of Natural Resources, and to what degree, before the fiscal impact could be predicted.

Officials from the **Department of Natural Resources** assume that this section of the proposal would require the department to establish and administer a Biodiesel Fuel Revolving Fund in which funds from the sale of excess EPA alternative fuel vehicle credits may be deposited and used to pay the incremental cost of biodiesel by state agencies. The department would also be

ASSUMPTION (continued)

required to conduct a study by January 1, 2002, on the use of alternative fuels in motor vehicles in the state. The department anticipates that as more private and other non-state public fleets are required to meet EPAct alternative fuel requirements and the establishment of reporting mechanisms for these fleets are put in place, the sale of credits and the administration of this fund could result in the need for additional resources. The department assumes that administrative costs would be covered by monies in the Biodiesel Fuel Revolving Fund as outlined in this proposal. Implementation of Section 414.433 is the responsibility of the Department of Elementary and Secondary Education. Funding is subject to appropriation. Therefore, the department does not anticipate a need for additional resources to implement the provisions of this section.

Assumptions in response to the component of the proposal addressing the use of biodiesel to fuel school buses in school districts (section 414.433)

Officials from the **Department of Agriculture** state that they do not expect the proposal to affect their agency.

Officials from the **Department of Natural Resources (DNR)** assume that the implementation of section 414.433 would be the responsibility of the Department of Elementary and Secondary Education. DNR notes that funding is subject to appropriation, and therefore, does not anticipate a need for additional resources to implement the provisions of this section.

Officials from the **Secretary of State's Office (SOS)** assume the Department of Elementary and Secondary Education (DES) will promulgate rules to implement this proposal. Based on experience with other division, the rules, regulations and forms issued by DES could require as many as six pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes and the like are not repeated in the Code. These costs are estimated. The estimated cost of a page in the Missouri Register is \$23. The estimated cost of a page in the Code of State Regulations is \$27. The actual costs could be more or less than the SOS's estimated cost of \$369 for FY 2002. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded or withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

ASSUMPTION (continued)

Assuming the school districts utilize the maximum amount allowed under the proposal, based on seven-tenths of a percent of \$132,373,402 (entitlement authorized for 1998-99) and a 4 percent growth for three years, officials of the **Department of Elementary and Secondary Education** indicated that the maximum effect of the proposal would be:

2002-03	$\$132,373,402 \times .007 = \$926,614$
2003-04	$\$926,614 \times 1.04 = \$963,678$
2004-05	$\$963,678 \times 1.04 = \$1,002,225$
2005-06	$\$1,022,225 \times 1.04 = \$1,042,314$

Assumptions in response to the component of the proposal addressing the provision of late fees for self-service storage facilities (section 415.417)

Officials from the **Office of the State Courts Administrator** assume that this proposal would not directly affect state courts.

Assumptions in response to the component of the proposal addressing the surface mining permits (section 444.765 to 444.789)

In response to similar legislation (HCS for HB 239), officials from the **Office of State Courts Administrator** and the **Office of the Attorney General** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Department of Natural Resources** (DNR) note that currently, section 444.772.10 limits the fee for an industrial minerals permit by statute to a maximum of \$500 (currently \$350) for each permit to include all sites under that permit, plus \$40 for each acre under permit. This legislation will increase to a maximum of \$600 per permit plus each site not to exceed \$300. In addition, each bonded acre under the permit will require a maximum \$10 fee.

For operators whose bonded acres exceed 100 acres, those acres will require a maximum \$5 fee. There is also a maximum of \$2500 per permit in fees. Sand and gravel operators who mine less than 5000 tons annually shall be charged \$300. These fees shall be set to recover the costs of administering and enforcing the provisions of the law. Each year the director shall submit a report to the commission and the public that describes the number of employees and the activities performed the previous calendar year. Officials noted that permits are renewed yearly.

Currently Section 444.773.3, RSMo, allows the department to hold a public hearing only if a person's health, safety or livelihood is affected by noncompliance with any applicable laws or regulations. The department has received numerous requests for public hearings throughout the

ASSUMPTION (continued)

years, but has denied these requests in accordance with the present statutory criteria (allowing a hearing only if a noncompliance affects a person). The department has held only one hearing related to a surface mining permit.

The proposed legislation grants a public meeting if requested by interested persons and also allows them to request a public hearing, as defined by Chapter 536, RSMo, if requested by any interested person. The department assumes the proposed legislation would apply to any permit action which would meet the public notice requirements. The department averages approximately 60 new applications per year; last calendar year the department received 70 new applications.

Officials estimate that about one-half of these applications will result in a public meeting, and about six of these may result in a public hearing, as required in RSMo 444.880. Due to the public interest in new permits the department anticipates many requests for meetings.

After holding a public meeting, interested parties may request a public hearing. Under the current criterion, the department has never denied a land reclamation mining permit. But due to the sensitivity of the new criterion, that an interested party's health, safety or livelihood will be unduly impaired by the issuance of the permit, to request a public meeting or hearing, the department assumes there would be an increase in the number of permits going through the permit appeals process.

The department would request one (1) additional FTE to carry out the duties related to arranging meeting places and time, research time, and presentation of the department's permit position.

The department does not have the necessary resources to implement the proposed legislation. In addition, if the actual number of public meetings exceeds these projections the department may need to request additional resources.

The department would request one Land Reclamation Specialist to investigate requests for the public hearings, gather information concerning requests, schedule the public hearings, present and verify such evidence before the hearing officer, and then communicate findings to the Land Reclamation Commission.

Oversight has reduced the personal service costs and the expense and equipment costs submitted by the DNR to reflect those costs used in the fiscal note for a similar proposal from the 2000 session, and then increased these costs for inflation.

ASSUMPTION (continued)

Assumptions in response to the component of the proposal addressing establishing the "Advisory Committee for Electronic Commerce" within the Department of Economic Development (section 620.1580)

Officials from the **Department of Labor and Industrial Relations, Department of Revenue, Office of Administration** - divisions of **Budget and Planning** and the **Office of Information Technology** assume this proposal would not fiscally impact their respective agencies.

Officials from the **Department of Economic Development (DED)** assume that the 13-member (12 members and the Director of DED) committee will meet at least quarterly each year. In accordance with the proposal the members of the committee will receive reimbursement for expenses only. DED estimates the expense reimbursement as follows;

Mileage: It is estimated that 12 members of the 13-member committee will drive an average of 240 miles round trip to attend committee meetings. 240 miles round trip x four meetings per fiscal year x \$.295 mileage reimbursement rate x 12 = \$3,398 total mileage reimbursement.

Lodging: \$75 hotel cost per night @ 2 nights stay (2 nights per meeting) x four meetings per fiscal year for 12 members = \$7,200 (75 x 2 x 4 x 12).

Meals: \$35 daily meal allowance x 4 meeting per year x 2 days per meeting x 12 attendees = \$3,360. Also, \$22 dinner meal for evening prior to meeting x 4 meeting per year x 12 members = \$1,056 total dinner meal for evening prior to meeting. Therefore, total meal allowance is \$4,416 (\$92 meal allowance per member x 12 members x four meetings per year).

DED assumes the total reimbursable expenses incurred by the committee members will total roughly \$15,000 per year.

Oversight assumes many of the meetings will occur in Jefferson City and therefore, mileage, lodging, and meal allowances will not be as high as the DED has estimated. Oversight estimates that members of the committee will be reimbursed for actual and necessary expenses incurred and would total roughly \$5,000 per fiscal year.

Assumptions in response to the component of the proposal addressing establishing the "Missouri Air Emissions Banking and Trading Program"(section 643.220)

Officials from the **Department of Transportation** assume the proposed legislation would have no fiscal impact on their agency.

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ASSUMPTION (continued)

Officials of the **Office of Secretary of State** assume the Air Conservation Commission will promulgate rules to implement this proposal. Based on experience with other divisions, the rules, regulations and forms issued by the Air Conservation Commission could require as many as approximately 46 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the *Code* because cost statements, fiscal notes and the like are not repeated in *Code*. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. Therefore, for FY 02 costs are estimated at \$2,829. The actual costs could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Natural Resources** assume this proposal requires the Air Pollution Control Program to develop an emissions banking and trading program for criteria pollutants or their precursors in any area that is not currently in attainment of a National Ambient Air Quality Standard. The department will need to request additional staffing to handle the tracking and review of banking requests to satisfy these requirements.

The Department of Natural Resources would request two (2) FTE to implement the increased technical review associated with a new Emissions Banking and Trading program. The Environmental Engineers I/II - (1.5 FTE) would be responsible for the technical review for the emissions banking and trading programs in all non-attainment and maintenance areas in Missouri. These FTE would need to determine if each application demonstrates enforceable, permanent and real emission reductions. These evaluations will likely be included in construction permit applications. Planning estimates 100 more applications above those the DNR currently receives for the Electrical Utilities. The DNR estimates 30 hours of review time per application for a total of 3,000 hours of additional work.

The Accounting Analyst I/II - (.5 FTE) would manage the emissions bank and be responsible for tracking every emission credit issued by the department for the life of the credit. This FTE would also review/approve transfer requests, serialize credits, and create emissions banking reports. The banking portion of this program would take 1,000 hours of additional work.

ASSUMPTION (continued)

Oversight has adjusted the DNR's salaries to a salary more in line with the State's hiring practices.

Assumptions in response to the component of the proposal requiring the Department of Natural Resources to certify, without conditions, any federal Clean Water Act Section 404 nationwide permit for the construction of highways and bridges approved by the Missouri Highways and Transportation Commission as it applies to all waters of the state (section 644.038)

Officials from the **Department of Natural Resources** did not estimate costs or revenues for this portion of the proposal in their response.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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**CHEMICAL EMERGENCY
 PREPAREDNESS FUND**

Income - Department of Public Safety

Continuance of fee collection due to extension of sunset date	\$0	\$603,031	\$761,724
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Cost - Department of Public Safety

Distribution to local government	\$0	(\$391,971)	(\$495,120)
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**ESTIMATED NET EFFECT ON
 CHEMICAL EMERGENCY
 PREPAREDNESS FUND**

<u>\$0</u>	<u>\$211,060</u>	<u>\$266,604</u>
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ROAD FUND

Savings - Department of Transportation

Continued reimbursement for cleanups	<u>\$0</u>	<u>\$0</u>	<u>\$95,000</u>
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<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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**PETROLEUM STORAGE TANK
 INSURANCE FUND (PSTIF)**

Revenue - PSTIF

Transport Load Fee

Due to increase in the fee	\$4,275,000	\$11,400,000	\$7,125,000
Due to extension of sunset date (6 mos. in FY 2004)	\$0	\$0	\$17,100,000

Other Fees and Interest Income

Due to increase in the fee	\$0	\$0	\$0
Due to extension of sunset date (6 mos. in FY 2004)	<u>\$0</u>	<u>\$0</u>	<u>\$1,009,842</u>

Estimated <u>Revenue</u> to PSTIF	<u>\$4,275,000</u>	<u>\$11,400,000</u>	<u>\$25,234,842</u>
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Costs - PSTIF

Actuarial Analysis

(\$75,000)	\$0	(\$75,000)
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Administrative

Due to increase in the fee	\$0	(\$392,959)	(\$404,820)
Due to extension of sunset date (6 mos. in FY 2004)	\$0	\$0	(\$2,901,144)

Program Distribution (Claims)

Due to increase in the fee	\$0	(\$2,272,465)	(\$9,508,000)
Due to extension of sunset date (6 mos. in FY 2004)	<u>\$0</u>	<u>\$0</u>	<u>(\$3,173,295)</u>

Estimated <u>Cost</u> to PSTIF	<u>(\$75,000)</u>	<u>(\$2,665,424)</u>	<u>(\$16,062,259)</u>
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**ESTIMATED NET EFFECT ON
 PETROLEUM STORAGE TANK
 INSURANCE FUND**

<u>\$4,200,000</u>	<u>\$8,734,576</u>	<u>\$9,172,583</u>
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**SECRETARY OF STATE'S
 TECHNOLOGY TRUST FUND
 ACCOUNT**

<u>Income</u> - Continuation of fee collection	<u>\$1,150,000</u>	<u>\$2,300,000</u>	<u>\$2,300,000</u>
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<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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MINED LAND RECLAMATION FUND

Income - Department of Natural Resources

Permit Fee Restructuring	\$166,322	\$200,388	\$200,388
Estimated <u>Income</u> to MLRF	<u>\$166,322</u>	<u>\$200,388</u>	<u>\$200,388</u>

Costs - Department of Natural Resources

Personal Service (1 FTE)	\$0	(\$37,526)	(\$38,464)
Fringe Benefits	\$0	(\$12,507)	(\$12,820)
Expense and Equipment	<u>\$0</u>	<u>(\$12,764)</u>	<u>(\$5,901)</u>
	\$0	(\$62,797)	(\$57,185)

Other <u>Costs</u> - Department of Natural Resources Hearing Expenses		(\$117,420)	(\$120,943)
	<u>(\$85,500)</u>	to <u>(Unknown)</u>	to <u>(Unknown)</u>

Estimated <u>Costs</u> to MLRF	<u>(\$85,500)</u>	<u>(\$180,217)</u>	<u>(\$178,128)</u>
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ESTIMATED NET EFFECT ON MINED LAND RECLAMATION FUND**

<u>\$80,822</u>	<u>\$20,171</u>	<u>\$22,260</u>
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**** DOES NOT REFLECT UNKNOWN HEARING EXPENSES**

GENERAL REVENUE

<u>Costs</u> - Business Facility Tax Credits	\$0 to (\$200,000)	\$0 to (\$200,000)	\$0 to (\$200,000)
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<u>Costs</u> - Reimbursable expenses for performance of committee	(\$4,200)	(\$5,000)	(\$5,000)
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<u>Costs</u> - Transfers to State School Moneys Fund**	\$0	\$0 to (\$926,614)	\$0 to (\$963,678)
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$4,200 to \$204,200)</u>	<u>(\$5,000 to \$1,131,614)</u>	<u>(\$5,000 to \$1,168,678)</u>
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****SUBJECT TO APPROPRIATION**

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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STATE SCHOOL MONEYS FUND

<u>Income</u> - Transfers from General Revenue Fund	\$0	\$0 to \$926,614	\$0 to \$963,678
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<u>Cost</u> - Distributions to School Districts	\$0	\$0 to (\$926,614)	\$0 to (\$963,678)
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ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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NATURAL RESOURCES PROTECTION FUND - AIR PERMIT

<u>Costs</u> - Department of Natural Resources			
Personal Service (2 FTE)	\$0	(\$88,189)	(\$90,394)
Fringe Benefits	\$0	(\$29,393)	(\$30,128)
Expense and Equipment	<u>\$0</u>	<u>(\$26,978)</u>	<u>(\$12,956)</u>

ESTIMATED NET EFFECT ON NATURAL RESOURCES PROTECTION FUND - AIR PERMIT	<u>\$0</u>	<u>(\$144,560)</u>	<u>(\$133,478)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2002	FY 2003 (10 Mo.)	FY 2004
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LOCAL GOVERNMENT

<u>Income</u> - Local Government			
Fees received from Department of Public Safety	<u>\$0</u>	<u>\$391,971</u>	<u>\$495,120</u>

SCHOOL DISTRICTS

<u>Income</u> - Increased state aid	\$0	\$0 to \$926,614	\$0 to \$963,678
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<u>Costs</u> - Difference between market price of diesel and cost of biodiesel	\$0	\$0 to (\$926,614)	\$0 to (\$963,678)
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ESTIMATED NET EFFECT ON SCHOOL DISTRICTS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

In reference to the component addressing the revisions in inspection provisions for beverage manufacturers and distributors, small businesses would expect to be fiscally impacted to the extent they would incur a reduction in licensing and inspection fees as a result of the requirements of this proposal. In reference to the component addressing the Emergency Response Commission, those small businesses currently paying fees for storage of hazardous materials would be fiscally impacted as a result of this proposal. In reference to the component of the proposal addressing the Petroleum Storage Tank Insurance Fund, surface mining permits, and the "Missouri Air Emissions Banking and Trading Program," small businesses could be affected by the provisions of this proposal. In reference to the component of the proposal addressing the additional fees collected by the Secretary of State's Office, would result in an unknown impact to small businesses. In reference to the component of the proposal addressing the computer-generated electronic or digital retrieval records systems and the "Advisory Committee for Electronic Commerce," no direct fiscal impact to small businesses would be expected as a result of this proposal. In reference to the component of the proposal addressing school districts purchasing biodiesel fuel, small businesses which are biodiesel fuel distributors, manufacturers or retailers and new generation cooperatives could be affected by this proposal.

DESCRIPTION

This proposal makes numerous changes to laws regarding the environment and commerce.

SURFACE MINING

(1) Permit Fees

Current law establishes annual fees for most surface mining permits at \$350 plus \$40 for each individual site mined during the year. There is also a fee of \$35 per acre when a permit application is originally filed. The Land Reclamation Commission may increase the basic annual fee to \$500. Gravel mine operators removing less than 5,000 tons per year pay \$100 plus \$35 per acre annually. The substitute allows the commission to establish fees that recover costs of administration and enforcement, with a basic annual fee cap of \$600 and additional annual fees of no more than \$10 per acre and \$300 per site. The fee for each acre over 100 is reduced by 50%, and the site fee is reduced by 50% if mining occurs for less than six months of the year. Total annual fees for each permit are capped at \$2,500. Gravel mine operators removing less than 5,000 tons per year pay \$300 annually. All fees expire on December 31, 2007.

(2) Public Notice Requirements

Under current law, applicants for surface mining permits are required to publish a notice in a newspaper of general circulation in the local area, interested parties may submit written

DESCRIPTION (continued)

comments to the Department of Natural Resources or request a public hearing for 15 days after the application is filed, and the department must forward a recommendation on the permit to the commission by the end of the public comment period. The substitute requires applicants to publish a notice once a week for four weeks, beginning no more than 10 days after the application is complete. Applicants are also required to notify, by certified mail, the local governing body and owners of property adjacent to the proposed surface mine. Notices must include a statement that interested parties may submit written comments to the department or request a public meeting or a formal hearing for up to 15 days after the end of the public notice period.

The department must forward its recommendation on the permit to the commission within four weeks after the end of the public notice period. If a public meeting was requested and the applicant agrees, the department and applicant will conduct the meeting within 30 days after the end of the comment period, and the department will make a recommendation to the commission within 30 days after the meeting. If issues are not resolved at the public meeting and a formal public hearing is requested, the commission may conduct a hearing. The commission may deny the permit if there is substantial scientific evidence that the applicant has a reasonable likelihood of noncompliance or that mine operations will impair the health, safety, or livelihood of an interested party. Past acts of noncompliance shall not be used as a basis to suggest a reasonable likelihood of future acts of noncompliance unless specific criteria is met.

(3) Reclamation Standards

Currently, surface mine operators must begin reclamation as soon as possible after commencement of mining and, after their permit expires, complete grading within 12 months and seeding and planting within 24 months. The substitute requires operators to begin reclamation as soon as possible after completion of mining in a portion of their permitted area and to complete grading within 12 months and seeding and planting within 24 months.

The department may require erosion control measures on overburden stockpiles if the erosion is causing damage outside the permitted area. Grading and replacing topsoil may not be required in rugged areas intended for wildlife habitats or in areas reclaimed for industrial use. To reclaim land mined previously as a substitute for reclaiming currently mined land, operators must submit a plan and provide written permission of the landowner

AIR EMISSIONS BANKING AND TRADING

This proposal requires the Missouri Air Conservation Commission to establish an emissions trading program to achieve the national air standards required under the federal Clean Air Act. The Commission shall consider certain factors listed in the proposal in establishing the program.

DESCRIPTION (continued)

The program shall apply in "non-attainment areas," which are areas in which the air does not meet one or more of the national air standards. Under the program, owners of air pollutant sources located in non-attainment areas may document permanent, measurable and federally-approved reductions in emissions and receive credits for the reductions. The credits may be used, traded, sold or otherwise expended within the same non-attainment area in which the emissions reduction occurred, but only if there will be no adverse impact on air quality. Creditable reductions shall only be given for emission reductions that occur after the effective date of the proposal. In the non-attainment areas, the banked credits shall be reduced each year by 3 percent as long as the area remains classified as a non-attainment area.

The Department of Natural Resources shall register credits and administer the Missouri emissions bank.

BIODIESEL FUEL

This proposal directs the Department of Agriculture and the Department of Natural Resources to establish and administer an EAct credit banking and selling program to allow state agencies to use moneys generated by the sale of EAct credits to purchase biodiesel fuel for use in state vehicles. This proposal also creates, in the state treasury, the "Biodiesel Fuel Revolving Fund." Moneys deposited into the fund shall be used to pay for the incremental cost of biodiesel fuel with a minimum concentration of 20 percent by volume biodiesel and 80 percent by volume petroleum-based diesel fuel. The Department of Natural Resources will conduct a study on use of alternative fuels in motor vehicles in the state and report its findings to the General Assembly by January 1, 2002.

For school years 2002-2003 to 2005-2006, this proposal allows school districts to establish contracts with nonprofit, farmer-owned new generation cooperatives to supply bus fuel containing at least 20% biodiesel. Subject to appropriation, districts that establish contracts will receive additional state school aid for costs above the market price for regular diesel fuel. Initial statewide payments are capped at seven-tenths percent of the 1998-1999 entitlement for state transportation aid, but may be increased by 4 percent each year.

PETROLEUM STORAGE TANK INSURANCE FUND

The Petroleum Storage Tank Insurance Fund expires on December 31, 2003. This proposal extends the fund to December 31, 2010. The board shall annually commission an independent financial audit of the fund and shall biennially commission an actuarial analysis of the fund. The results of both shall be made available to the public. Thereafter, the fund's board of trustees may function only to complete payment of claims made prior to the expiration date. Subject to

DESCRIPTION (continued)

regulations of the board trustees, owners and operators may continue participating in the fund after transferring their property to another party. The proposal excludes standards and regulations pertaining to spill prevention control and countermeasure plans when certifying that petroleum tanks meet or exceed and are in compliance and technical standards established by the United States Environmental Protection Agency.

Current law states that an owner or operator making a claim shall be liable for the first \$10,000 of the cleanup cost with a release from a petroleum storage tank without reimbursement from the fund. The proposal changes the language from an "owner or operator" to "any person."

Current law allows the board to set, by rule, the surcharge paid into the fund for each petroleum transport load. The proposal allows the board to adjust the surcharge, up to a maximum of \$60, after 60 days notice, for public comment; however, the board shall not increase the surcharge more than \$15 in any year. The maximum surcharge is increased from \$25 to \$60 per load. If the fund's balance exceeds its liabilities by 10% on the first day of any month, the surcharge reverts to \$25 per load on the first day of the second month following this event.

Moneys generated by this surcharge shall not be used for any purposes other than those outlined in sections 319.129 through 319.133 and section 319.138. Nothing in this subdivision shall limit the board's authority to contract with the Department of Natural Resources pursuant to section 319.129 to carry out the purposes of the fund as determined by the board.

This proposal allows individuals who may have made an erroneous surcharge payment to the Petroleum Storage Tank Insurance Fund to file a refund claim with the fund's board of trustees.

Claims must be filed within three years of making the payment. Individuals aggrieved by the board's decision may seek judicial review through the circuit court of Cole County no later than 60 days after the decision.

OTHER PROVISIONS

The proposal also:

- (1) Allows government agencies to reproduce official documents using computer-generated electronic or digital retrieval records systems. Under current law, public records may be created and stored by electronic processes.
- (2) Allows any employee of a new business facility with the North American Industry Classification System Number 336991 (motorcycle and bicycle manufacturing facilities) to be

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DESCRIPTION (continued)

considered a resident of an enterprise zone, even if the employee ceases to live in an enterprise zone, as long as the following conditions are met:

- 1) The individual was a resident of an enterprise zone for one calendar month prior to his employment with the new NAICS 336991 business facility;
- 2) The individual remains employed with the new NAICS 336991 business facility, and;
- 3) The individual continues to reside in Missouri.

(3) Revises inspection provisions for beverage manufacturers and distributors. A new section 196.367 would be created to exempt any manufacturer or distributor from the inspection provisions in Sections 196.365 - 196.445, RSMo, if it has received approval after federal food safety inspection and if it satisfies all applicable Food and Drug Administration regulations.

(4) Extends the expiration date on fees for the Missouri Emergency Response Commission from August 28, 2002, to August 28, 2012.

(5) Extends the \$5 fees collected by the Secretary of State for the Technology Trust to December 31, 2009. Currently the Fund will expire on December 31, 2001.

(6) Authorizes operators of self-service storage facilities to impose reasonable late fees for each month an occupant does not pay rent when due, as long as the late fee is specified in the rental agreement. A reasonable late fee is defined as the greater of \$20 or 20% of the monthly rental amount. An operator who wishes to establish a higher late fee has the burden of proof that the higher late fee is reasonable. The proposal also permits operators to recover all reasonable rent collection and lien enforcement expenses from the occupant.

(7) Establishes the Advisory Committee for Electronic Commerce within the Department of Economic Development (DED) for the purpose of advising state agencies on issues related to electronic commerce. The Director of the DED chairs the Committee and appoints 12 other members in accordance with certain specified criteria. Members are appointed for two-year terms and the Committee is required to meet at least twice per year.

(8) Requires the Department of Natural Resources to certify, without conditions, any federal Clean Water Act Section 404 nationwide permit for the construction of highways and bridges approved by the Department of Transportation.

This legislation is not federally mandated and would not require additional capital improvements or rental space.

DESCRIPTION (continued)

Officials from the **Department of Revenue** note that currently, within the Office of Administration, Office of Information Technology there is an advisory board "Information Technology Advisory Board." This board has formed several committees and subcommittees one of which is an "E-Government" Committee. The committee includes representatives from the following agencies: Department of Social Services, Office of Information Technology, Office of Administration, Department of Revenue, State Treasurers Office, State Court Administrators Office, Department of Elementary and Secondary Education and Secretary of State.

SOURCES OF INFORMATION

Department of Natural Resources
Department of Public Safety - State Emergency Management Agency
Office of the Attorney General
Office of State Courts Administrator
Department of Transportation
Department of Revenue
Secretary of State's Office
Office of Administration
 Budget and Planning
 Office of Information Technology
Department of Economic Development
Department of Labor and Industrial Relations
Department of Agriculture
Department of Elementary and Secondary Education



Jeanne Jarrett, CPA
Director

June 6, 2001